



(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to allow for nonrecognition of gain on real property sold for use as affordable housing.

IN THE HOUSE OF REPRESENTATIVES

Mr. SCHIFF introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to allow for nonrecognition of gain on real property sold for use as affordable housing.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordable and Home-
5 less Housing Incentives Act of 2023”.

1 **SEC. 2. NONRECOGNITION OF GAIN ON PROPERTY SOLD**
2 **FOR USE AS AFFORDABLE HOUSING.**

3 (a) IN GENERAL.—Section 1033 of the Internal Rev-
4 enue Code of 1986 is amended by redesignating subsection
5 (k) as subsection (l) and by inserting after subsection (j)
6 the following new subsection:

7 “(k) SALES FOR USE AS AFFORDABLE HOUSING.—

8 “(1) IN GENERAL.—For purposes of this sub-
9 title, if real property is sold or otherwise transferred
10 to a qualified housing operator for use or develop-
11 ment by such operator as affordable housing and
12 such property meets the requirements of paragraphs
13 (3) and (4), such sale or transfer shall be treated as
14 an involuntary conversion to which this section ap-
15 plies.

16 “(2) QUALIFIED HOUSING OPERATOR.—For
17 purposes of this section, the term ‘qualified housing
18 operator’ means any of the following:

19 “(A) A State or local government, or any
20 political subdivision or instrumentality thereof.

21 “(B) A tribally designated housing entity
22 (as such term is defined in section 4 of the Na-
23 tive American Housing Assistance and Self-De-
24 termination Act of 1996).

25 “(C) A community housing development
26 organization (as such term is defined in section

1 104 of the Cranston-Gonzalez National Afford-
2 able Housing Act).

3 “(D) An organization—

4 “(i) described in section 501(e) and
5 exempt from taxation under section
6 501(a),

7 “(ii) the purpose of which includes
8 providing affordable housing, and

9 “(iii) which—

10 “(I) has received Federal, State,
11 or local grant funds to develop or op-
12 erate affordable housing, or

13 “(II) is described in section
14 42(h)(5)(B) with respect to a quali-
15 fied low-income housing project that is
16 allocated housing credit dollar
17 amounts under section 42.

18 “(3) AFFORDABLE HOUSING REQUIREMENT.—

19 The requirements of this paragraph are met with re-
20 spect to property if such property has, as of the date
21 of the sale or transfer referred to in paragraph (1),
22 a covenant or other binding legal restriction suffi-
23 cient to—

24 “(A) obligate, at all times during the 30-
25 year period beginning on such date, each owner

1 of such property with respect to the portion of
2 such period during which such owner owns such
3 property, to maintain such property as either—

4 “(i) residential rental property (within
5 the meaning of section 168) not less than
6 75 percent of the units of which are af-
7 fordable to low-income families and either
8 occupied by or available for use by low-in-
9 come residents, or

10 “(ii) a shelter eligible for assistance
11 under title IV of the McKinney-Vento
12 Homeless Assistance Act, and

13 “(B) provide any person a right to obtain
14 injunctive relief to enforce the obligations de-
15 scribed in subparagraph (A).

16 “(4) NOTIFICATION OF DEPARTMENT OF HOUS-
17 ING AND URBAN DEVELOPMENT.—The requirements
18 of this paragraph are met with respect to any prop-
19 erty if, not later than 90 days after the date of the
20 sale or transfer referred to in paragraph (1), the
21 transferor notifies the Secretary of Housing and
22 Urban Development of such transfer in such manner
23 as such Secretary may provide.

24 “(5) SPECIAL RULE WITH RESPECT TO PERIOD
25 WITHIN WHICH PROPERTY MUST BE REPLACED.—In

1 the case of a sale or transfer described in paragraph
2 (1), subsection (a)(2)(B)(i) shall be applied by sub-
3 stituting ‘3 years’ for ‘2 years’.

4 “(6) SPECIAL RULE FOR REAL PROPERTY HELD
5 FOR PRODUCTIVE USE IN TRADE OR BUSINESS.—
6 For purposes of subsection (a), if the real property
7 described in paragraph (1) is held for productive use
8 in a trade or business or for investment, property of
9 a like kind to be held either for productive use in a
10 trade or business or for investment shall be treated
11 as property similar or related in service or use to the
12 property so described.”.

13 (b) ENFORCEMENT OBLIGATIONS OF THE DEPART-
14 MENT OF HOUSING AND URBAN DEVELOPMENT.—With
15 respect to each property with respect to which the Sec-
16 retary of Housing and Urban Development receives notifi-
17 cation under paragraph (4) of section 1033(k) of the In-
18 ternal Revenue Code of 1986, such Secretary, acting
19 though the Departmental Enforcement Center (DEC) of
20 the Department of Housing and Urban Development, shall
21 ensure (not less often than every 5 years during the 30-
22 year period described in paragraph (3)(A) of such section)
23 that such property complies with the requirements of such
24 paragraph (3)(A), including if necessary by obtaining the

1 injunctive relief described in paragraph (3)(B) of such sec-
2 tion.

3 (c) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to sales and transfers after the
5 date of the enactment of this Act.